

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 9-12, 14-17, 19, and 21-28 are pending in the application, with claims 9, 14, 22, 25, and 27 being the independent claims. These amendments are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections Under 35 U.S.C. § 112

Claims 19, 22-24, 27, and 28 have been rejected under 35 U.S.C. § 112, first and second paragraphs, as failing to comply with the written description requirement and as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. In particular, the Examiner asserts that the recitation of a "differential gear interlocking with said motor shaft" is not supported by the specification because the term "interlocking" does not appear in the original specification, and that the term is indefinite because the scope of this term allegedly cannot be determined. Applicants have amended claims 19, 22 and 27 to recite "engaging" instead of "interlocking." The term "engaging" appears *inter alia* at page 10, lines 16-23 of the specification. Applicants therefore respectfully request that the rejection be withdrawn.

Interference Estoppel

Claims 9-12, 14-17, 19, and 21-28 have been rejected under Interference Estoppel under 37 C.F.R. § 1.658(c) in view lost count of Interference No. 104,497 in view of U.S. Patent No. 3,360,933 to Swanson and U.S. Patent No. 3,903,698 to

Gellatly. According to the Examiner, the lost count in the interference does not recite the oil suction port, check valve, filter, and swash plate recited in the claims of the application, but that these features would have been obvious to one of ordinary skill in the art in view of Swanson and Gellatly. Further, regarding the differential gear and axles recited in the claims, the Examiner states that these features were recited in the lost count of Interference No. 104,496. Thus, the Examiner concludes that it would have been obvious to provide a differential gear and axles to the device recited in lost count of the '497 interference. Applicants respectfully traverse the rejection.

Independent claims 9 and 14 each recite that the center section is fixed to the upper half housing. This feature does not appear in the count of either the '496 or '497 interference, and is not disclosed or suggested by Swanson or Gellatly.

Similarly, independent claims 22 and 25 each recite that the swash plate includes a detent mechanism. The counts of the '496 or '497 interference do not recite this feature, and it is not disclosed or suggested by the Swanson or Gellatly.

Independent claim 27 recites that the pump shaft is disposed between the motor shaft and the pair of axles. This feature does not appear in the count of either the '496 or '497 interference, and is not disclosed or suggested by Swanson or Gellatly.

As shown above, even if combined, the counts and references relied upon by the Examiner do not disclose or render obvious each and every feature recited in independent claims 9, 14, 22, 25, and 27 of the present application. Claims 10-12, 15-17, 19, 23, 24, 26, and 28 depend from one of independent claims 9, 14, 22, 25, and 27, and are therefore allowable over the counts and references for at least the same reasons discussed above. Applicants therefore respectfully request that the rejection be withdrawn.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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